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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------|-------------|----------------------|---------------------|------------------|
| 09/943,910 | 08/31/2001 | J. Stuart Cumming | HO-P02089US1 | 2364 |
| 26271 | 7590 | 11/17/2004 | EXAMINER | |
| FULBRIGHT & JAWORSKI, LLP | | | LANDREM, KAMRIN R | |
| 1301 MCKINNEY | | | | |
| SUITE 5100 | | | ART UNIT | |
| HOUSTON, TX 77010-3095 | | | PAPER NUMBER | |
| 3738 | | | | |

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------|------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/943,910 | CUMMING, J. STUART <i>JN</i> |
| | Examiner | Art Unit |
| | Kamrin R. Landrem | 3738 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/9/04.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,5-14 and 16-30 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,5-8,16,18-20,23,24,28,29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 9-14,17,21,22,25-27,30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14,17, 21, 22, 25-27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klaas (UPSN 5,522, 891) in view of Sheets (USPN 4,813,953).

With reference to Figures 14 and 15 Klaas discloses an intraocular lens comprising a single optic 4 having anterior and posterior sides and one or more plate haptics 14 extending from the edge of the optic 4. The haptics 14 have a thinner portion 19 adjacent the optic that enables the optic to move anteriorly and posteriorly (4:62-67). In Figure 15 the lateral edges of haptics 14 are parallel to one another. Klaas discloses the intraocular lens as claimed however Klaas fails to discloses protuberances extending from a surface of the haptic. With reference to Figures 2A and 2B Sheets teaches an intraocular lens comprising an optic 10, two or more haptic members 12,14 having protuberance 28,38 that extend anteriorly, posteriorly, and laterally away from haptics 12,14 to aid stable fixation of the intraocular lens within the eye (3:1-6). Therefore in view of the teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the intraocular lens disclosed by Klaas by adding the extending protuberances as taught by Sheets in order to provide increased fixation of the intraocular lens within the eye.

Applicant's newly added claim 30 is also disclosed by Klaas in view of Sheets. The extending haptics have four fixation points that are composed of the protuberances located on the distal end of the haptics. The protuberances can each be said to have a two fixations points, one anterior and one posterior to each protuberances. Therefore since there are two haptics, each of which has one protuberance, there are a total of four points of contact created by the two haptic ends.

Response to Arguments

Applicant's arguments filed 8/9/04 have been fully considered but they are not persuasive. The Applicant's arguments are commensurate with the scope of the claims. The Examiner contends that the combination Klaas and Sheets does disclose all of the claimed structural limitations. With reference to Figures 15 Klaas discloses an accommodating (1:24) intraocular lens comprising radially extending haptics. With reference to Figures 1 and 2A,B Sheets discloses an intraocular lens with radially extending haptics that further comprise fixation features (protuberances) that aid in stable positioning of the intraocular lens. The intraocular lens of Klaas fits within the capsular bag of the eye and is capable of moving anteriorly and posteriorly by the due to the weakened section 19 (4:62+). The protuberances of Sheets would act to fix the haptic distal ends against the capsule wall and thus result in anterior or posterior of the optic portion only.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamrin R. Landrem whose telephone number is 571-272-4752. The examiner can normally be reached on 8:00-5:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamrin Landrem
Examiner
AU 3738

krl


CORRINE McDERMOTT
SUPERVISOR, EXAMINER
TECHNOLOGY CENTER 3700